



The Comptroller General
of the United States

Washington, D.C. 20548

Pietroviato

Decision

Matter of: Viktoria-Schafer GmbH & Co., KG

File: B-231392

Date: June 22, 1988

DIGEST

Since as the fourth low offeror in a procurement in which price is the determining factor, the protester's direct economic interest is not affected by the award of the contract, the protester is not an interested party eligible to pursue a protest against award to the low offeror.

DECISION

Viktoria-Schafer GmbH & Co., KG protests the award of a contract to Frau Juliana Zschernig under request for proposals (RFP) No. DAJA37-88-R-0006, issued by the U.S. Army Contracting Command, Europe, for transportation and storage of government furniture. Viktoria contends that Zschernig is nonresponsible.

We dismiss the protest because Viktoria is not an interested party as required by the Competition in Contracting Act of 1984 (CICA), 31 U.S.C. § 3551 (Supp. IV 1986), and our Bid Protest Regulations, 4 C.F.R. §§ 21.0(a) and 21.1(a) (1988).

An interested party is defined in both CICA and our Regulations as an actual or prospective offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract. Generally, a party will not be deemed to have the necessary economic interest where there are other intervening offerors that would be in line for award if the awardee were eliminated from the competition. Gentex Corp., B-225669, Feb. 27, 1987, 87-1 CPD ¶ 230.

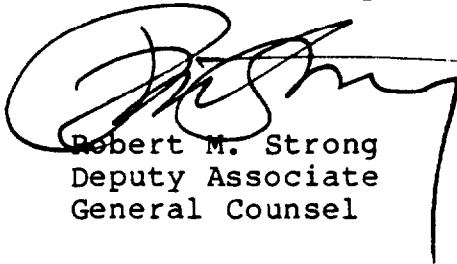
The RFP provided that award would be made on an all-or-none basis to the responsible offeror who submitted the most advantageous proposal to the government, price and other factors considered. The RFP, however, did not contain technical criteria for comparative evaluation of the merits of proposals or contemplate the submission of technical proposals. Thus, the competition was based on price.

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The abstract of offers reveals that Viktoria is the fourth low offeror. The Army found the lowest offeror nonresponsible and made award to Zschernig, the second low offeror. While Viktoria challenges the award to Zschernig, it does not challenge the eligibility of the third low offeror. Accordingly, Viktoria, as the fourth low offeror, would not be in line for the award even if its protest were sustained and, therefore, is not an interested party.

In view of the foregoing conclusion, it is not necessary to address the agency's contention that the responsibility issue is not the type we will consider. See 4 C.F.R. § 21.3(m)(5).

We dismiss the protest.



Robert M. Strong
Deputy Associate
General Counsel